

# WATER THEFT BILL

SENATE FINANCE & CLAIMS

Exhibit No. 5

Date 3-18-09

## SENATE BILL 505

SB 505

Industry discharges  
groundwater as a  
byproduct of coal bed  
methane production.



## Vote AGAINST SB 505

Fidelity Exploration and Production Company (FEPCO) is a coal bed methane gas development company from Denver, Colorado. Coal bed methane gas development results in a huge amount of water being brought up as a byproduct. This water belongs in our aquifers for current water rights holders and other farmers, ranchers, and citizens to use as they have for 140 years. However, Fidelity has been looking for a way to claim that that water is theirs. Fidelity's latest attempt is by working with a legislator (Keith Bales) to introduce Senate Bill 505 that would undermine water rights law and threaten the water rights of farmers and ranchers. It amounts to legalizing the theft of water that has already been allocated to other water users.

### Senate Bill 505 undermines water rights laws by:

1. Giving the coal bed methane companies' pipes legal status as the source of the water (Section 3a,b)
2. Giving a "temporary" permit that is far from temporary – it expires when water is no longer available (Section 4)
3. Classifying groundwater as "surface water," thus denying legal recourse to any water rights holder whose well dries up because the aquifer they use is dewatered. (Section 1g,h)
4. Declaring the methane companies' pipes to be the originating source of the water, as if water comes from a pipe instead of the ground.
5. Declaring "managed irrigation" (which is simply putting water on the ground) as a beneficial use. (Section 1c)
6. Putting this water under the jurisdiction of the Board of Oil and Gas Conservation, a state department which openly advocates for the industry they are supposed to regulate. (Section 1d,e,f)
7. Putting water management under Section 82 of the code, which is a faulty section pushed through by Senator Keith Bales at the 11th hour during the 2005 legislative session. (Section 1b)
8. Giving coal bed methane companies a permit to the water despite its overwhelming quantity and threat to the depletion of the aquifer. (Section 2,3)

### This bill will take water from senior water rights holders

Groundwater feeds springs, wells, and seeps, which are critical to ranchers and farmers, water rights holders, and other rural citizens to use domestically and for livestock and crops. However, billions of gallons of this groundwater are pumped from the ground in the course of coal bed methane development. Agriculture is the backbone of Montana's economy and will continue to be so, if it isn't sacrificed to the short-term methane industry.

### Bad amendment

In addition to SB 505, there could be another attempt to undermine water rights law in the form of an amendment in the Senate to a House Bill 40 bill, which has cleared the full House.

### Doing it right

Coal bed methane development CAN be done the right way – in a way that doesn't sacrifice southeastern Montana, use up all our water, and do away with water rights law. Stand up for Montana's farmers and ranchers by not allowing the company the "short cut" allowed in this law. Just as milk doesn't originate in a milk carton, water doesn't come from a pipe.